

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

James Mark Vogel,

Civ. No. 11-0446 (PJS/JJG)

Plaintiff,

v.

REPORT AND RECOMMENDATION

**Scot Turner, Aitkin County Sheriff;
Debra Hamilton, Jail Administrator;
Jeremy Swensen, Asst. Jail Admin.;
Janet Larsen, LPN;
Diane Grinde, D.O.C. Rep.; and
Alicia Peterson, Jail Nurse,**

Defendants.

JEANNE J. GRAHAM, United States Magistrate Judge

This matter is before the Court sua sponte. On January 8, 2013, the Court ordered Plaintiff James Mark Vogel to show cause why the claims against Defendant Alicia Peterson should not be dismissed for failure to comply with Rule 4(e) of the Federal Rules of Civil Procedure regarding service of process. Plaintiff was ordered to show cause no later than January 31, 2013. The Court advised Plaintiff that failure to demonstrate good cause explaining why service had not been made would result in the Court's recommendation that the case against Defendant Peterson be dismissed.

Plaintiff has failed to communicate with the Court since its order to show cause. The Court is empowered to dismiss an action pursuant to Rule 4(m) of the Federal Rules of Civil Procedure for ineffective service of process sua sponte. *See Simpson v. Pawlenty*, No. Civ. 04-2912, (PAM/JGL), 2004 WL 2757911, at *2 (D. Minn. Dec. 1, 2004) (citation omitted). Accordingly, the Court recommends the claims against Defendant Peterson be dismissed. The

claims against all other Defendants have already been dismissed. (*See* Order, Nov. 1, 2012, ECF No. 136; Order, Jan. 30, 2013, ECF No. 155.)

Based on all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that:

1. The claims against Defendant Alicia Peterson be **DISMISSED** without prejudice; and
2. **JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: February 22, 2013

s/ Jeanne J. Graham

JEANNE J. GRAHAM

United States Magistrate Judge

NOTICE

Pursuant to District of Minnesota Local Rule 72.2(b), any party may object to this Report and Recommendation by filing and serving specific, written objections by **March 11, 2013**. A party may respond to the objections within fourteen (14) days after service thereof. Any objections or responses shall not exceed 3,500 words. The district judge will make a de novo determination of those portions of the Report and Recommendation to which objection is made.